

AMENDED IN SENATE JUNE 18, 2009

AMENDED IN ASSEMBLY MARCH 25, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 602

Introduced by Assembly Member Price

February 25, 2009

~~An act to amend Sections 2550 and 2551 of the Business and Professions Code, relating to dispensing opticians. An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 602, as amended, Price. ~~Dispensing opticians. Health care coverage: prescriptions.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy that covers prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would prohibit a health care service plan or a health insurer covering prescription drug benefits from requiring prior authorization criteria that requires the trial and failure of more than 2 formulary alternatives for pain treatment in advance of providing access to the prescribed drug, or requiring an enrollee or insured to try and fail on pain medication supported only by an off-label indication before

providing access to a pain medication supported by an FDA-approved indication. The bill would specify that these provisions do not apply to a health benefit plan, health care service plan contract, or health insurance policy with or purchased by the Board of Administration of the Public Employees' Retirement System.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides that the right to dispense, sell, or furnish prescription lenses at retail to the person named in a prescription is limited to physicians and surgeons, optometrists, and registered dispensing opticians. Existing law provides for the regulation of dispensing opticians by the Medical Board of California, and requires a person engaging in the business of a dispensing optician to be registered with the board.~~

~~This bill would require a person engaging in the business of a dispensing optician to be registered biennially with the Medical Board of California. The bill would also authorize a dispensing optician, upon registration, to provide a mailing address to the board that is different from the address of the optician's place of business, and, if provided, would require the board to send all further application and renewal materials to that address.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.225 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.225. (a) A health care service plan that covers
- 4 prescription drug benefits shall not do either of the following:
- 5 (1) Require prior authorization criteria that requires the trial
- 6 and failure of more than two formulary alternatives for pain
- 7 treatment in advance of providing the enrollee with access to a

1 *prescribed drug. Each treatment alternative shall last no longer*
2 *than seven days.*

3 *(2) Require an enrollee to try and fail on pain medication*
4 *supported only by an off-label indication before providing access*
5 *to a pain medication supported by an FDA-approved indication.*

6 *(b) This section shall not apply to a health benefit plan or health*
7 *care service plan contract entered into with the Board of*
8 *Administration of the Public Employees' Retirement System*
9 *pursuant to the Public Employees' Medical and Hospital Care Act*
10 *(Part 5 (commencing with Section 22750) of Division 5 of Title 2*
11 *of the Government Code).*

12 *SEC. 2. Section 10123.197 is added to the Insurance Code, to*
13 *read:*

14 *10123.197. (a) A health insurer that covers prescription drug*
15 *benefits shall not do any of the following:*

16 *(1) Require prior authorization criteria that requires the trial*
17 *and failure of more than two formulary alternatives for pain*
18 *treatment in advance of providing the insured with access to or*
19 *coverage for a prescribed drug. Each treatment alternative shall*
20 *last no longer than seven days.*

21 *(2) Require an insured to try and fail on pain medication*
22 *supported only by an off-label indication before providing access*
23 *to a pain medication supported by an FDA-approved indication.*

24 *(b) This section shall not apply to a health benefit plan or policy*
25 *of health insurance purchased by the Board of Administration of*
26 *the Public Employees' Retirement System pursuant to the Public*
27 *Employees' Medical and Hospital Care Act (Part 5 (commencing*
28 *with Section 22750) of Division 5 of Title 2 of the Government*
29 *Code).*

30 *SEC. 3. No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *the only costs that may be incurred by a local agency or school*
33 *district will be incurred because this act creates a new crime or*
34 *infraction, eliminates a crime or infraction, or changes the penalty*
35 *for a crime or infraction, within the meaning of Section 17556 of*
36 *the Government Code, or changes the definition of a crime within*
37 *the meaning of Section 6 of Article XIII B of the California*
38 *Constitution.*

39 ~~*SECTION 1. Section 2550 of the Business and Professions*~~
40 ~~*Code is amended to read:*~~

1 ~~2550.—Individuals, corporations, and firms engaged in the~~
2 ~~business of filling prescriptions of physicians and surgeons licensed~~
3 ~~by the Medical Board of California or optometrists licensed by the~~
4 ~~State Board of Optometry for prescription lenses and kindred~~
5 ~~products, and, as incidental to the filling of those prescriptions,~~
6 ~~doing any or all of the following acts, either singly or in~~
7 ~~combination with others, taking facial measurements, fitting and~~
8 ~~adjusting those lenses and fitting and adjusting spectacle frames;~~
9 ~~shall be known as dispensing opticians and shall not engage in that~~
10 ~~business unless biennially registered with the Medical Board of~~
11 ~~California.~~

12 ~~SEC. 2.—Section 2551 of the Business and Professions Code is~~
13 ~~amended to read:~~

14 ~~2551.—Individuals, corporations, and firms shall make~~
15 ~~application for registration and shall not engage in that business~~
16 ~~prior to being issued a certificate of registration. Application for~~
17 ~~that registration shall be on forms prescribed by the board, shall~~
18 ~~bear the signature of the individual, or general partners if a~~
19 ~~partnership, or the president or secretary if a corporation, and shall~~
20 ~~contain the name under which he or she, they, or it proposes to do~~
21 ~~business and the business address. Separate applications shall be~~
22 ~~made for each place of business and each application must be~~
23 ~~accompanied by the application fee prescribed by Section 2565. An~~
24 ~~individual, corporation, or firm may provide an address to the~~
25 ~~board at which to receive application and renewal materials that~~
26 ~~is different from the address provided for the place of business. If~~
27 ~~provided, the board shall send all further application and renewal~~
28 ~~materials to that address.~~